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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/927,187	08/10/2001	John Merva	RVSI-020	3838

7590

03/14/2003

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EXAMINER

LEE, SEUNG H

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 03/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/927,187

Applicant(s)

MERVA ET AL.

Examiner

Seung H Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

Claim Objections

2. Claims 1-18 are objected to because of the following informalities:

Re claim 1, line 7: Substitute "imageing" with -imaging--,

Re claim 7, line 8: Substitute "mageing" with -imaging--,

Re claim 13, line 7: Substitute "imageing" with -imaging--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 3, line 5: The phrase "the symbology" lacks proper antecedent basis, the Examiner will consider the symbology as the encoded symbology until further clarified.

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Appropriate clarification and correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 1, 2, 7, 8, 13, and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Shearer (US 6,296,187).

Shearer teaches a scanner having a support or conveyor for receiving one article having a code thereon (Fig. 13), light sources (520A-520C) for illuminating barcode, CCD cameras (510A-510C) to capture images of different portion of barcode of article, decoder (540) for decoding data from the barcode, transparent windows or optics (866) disposed to receive article having barcode by moving a

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conveyor, digital signal processors or DSPs (930A-930C) for retrieving the proper memory location and providing scan pattern data to decoder (540) in which the decoder decoding the barcode (see Figs. 1, 5-14; col. 5, line 46- col. 8, line 63; col. 9, line 34- col. 11, line 61).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3-5, 9-11, and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shearer in view of Gusmano (US 5,532,845).

The teachings of Shearer have been discussed above.

Although, Shearer teaches a scanner having a plurality of CCD, he fails to teach or fairly suggest that the plurality of CCD decoding each portion of the barcode and assemble decoded data.

Gusmano teaches a digital scanner having two CCDs (11 and 21) wherein each CCD is scanning a half of document to produce electronic images, and then stitching ((120) both images from its respective CCD into a single image, and the system can have a multiple number of CCD (e.g., four CCD) (see Fig. 3-4; col. 3, line 55- col. 6, line 11).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Gusmano to the teachings of Shearer in order to provide an improved and an enhanced scanning means wherein scanner including multiple CCDs can scan larger area/portion of the document, that is, utilizing each CCD to capture a portion of image, decoding captured portion of image using associated circuits such as an imaging process circuit, and then combining a plurality of images into a single larger image, and therefore an obvious expedient.

9. Claims 6, 12, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shearer as modified by Gusmano, and further in view of Cohen et al. (US 6,331,437)(hereinafter referred to as 'Cohen').

The teachings of Shearer/Gusmano have been discussed above.

Although, Shearer/Gusmano teaches a scanner having a multiple CCD to read/scan barcode on the articles, they fail to teach or fairly suggest that the subjects to be encoded are test tube in which disposed in a predetermined array in a rack.

However, Cohen teaches test tubes are disposed in predetermined array of a rack (60) wherein each and every test tubes having a barcode label (71) thereon (see Fig. 2B; col. 5, lines 30-64).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Cohen to the teachings of Shearer/Gusmano in order to provide an particular information regarding each

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and every test tubes, that is, each and every bar code label identify a work order, and therefore an obvious expedient.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure;

Leberl et al. [US 6,417,936], Olmstead [US 5,770,847], Tsai [US 5,971,278] discloses a multiple CCD system,

Hajduk [US 6,157,449], and Berndt [US 5,595,708] disclose a system for scanning an array of materials.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Seung H. Lee whose telephone number is (703) 308-5894. The examiner can normally be reached on Monday to Friday from 7:30 AM to 4:00 PM.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee, can be reached on (703) 305-3503. The fax-phone number for this group is (703) 308-5841 or (703) 308-7722.


Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [michael.lee@uspto.gov].


All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the

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Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.


Seung H. Lee
Art Unit 2876
March 7, 2003


MICHAEL G. LEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800